

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN ASSEMBLY APRIL 8, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2052

Introduced by Assembly Member Gonzalez

February 20, 2014

An act to amend Sections ~~3212~~, 3212.1, 3212.5, 3212.6, 3212.85, and 3212.9 ~~of of, and to repeal and add Section 3212 of~~, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, as amended, Gonzalez. Workers' compensation.

Existing law establishes a workers' compensation system to compensate an employee for injuries arising out of, and in the course of, his or her employment. Existing law designates illnesses and conditions that constitute a compensable injury for various employees, such as California Highway Patrol members, firefighters, and certain peace officers. These injuries include, but are not limited to, hernia, pneumonia, heart trouble, cancer, meningitis, and exposure to a biochemical substances, when the illness or condition develops or manifests itself during a period when the officer or employee is in service of his or her employer, as specified.

This bill would expand the coverage of the above provisions relating to compensable injury, to include ~~all other, full-time~~ peace officers described ~~under pursuant to~~ specified provisions of law. ~~To the extent that the bill would apply the provisions to additional local peace officers, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3212 of the Labor Code is amended to~~
2 ~~read:~~
3 ~~3212. In the case of members of a sheriff's office or the~~
4 ~~California Highway Patrol, district attorney's staff of inspectors~~
5 ~~and investigators or of police or fire departments of cities, counties,~~
6 ~~cities and counties, districts or other public or municipal~~
7 ~~corporations or political subdivisions, or peace officers described~~
8 ~~in Chapter 4.5 (commencing with Section 830) of Title 3 of Part~~
9 ~~2 of the Penal Code, whether those persons are volunteer, partly~~
10 ~~paid, or fully paid, and in the case of active firefighting members~~
11 ~~of the Department of Forestry and Fire Protection whose duties~~
12 ~~require firefighting or of any county forestry or firefighting~~
13 ~~department or unit, whether voluntary, fully paid, or partly paid,~~
14 ~~and in the case of members of the warden service of the Wildlife~~
15 ~~Protection Branch of the Department of Fish and Game whose~~
16 ~~principal duties consist of active law enforcement service, except~~
17 ~~those persons whose principal duties are clerical or otherwise do~~
18 ~~not clearly fall within the scope of active law enforcement service~~
19 ~~such as stenographers, telephone operators, and other~~
20 ~~office workers, the term "injury" as used in this act includes hernia~~
21 ~~when any part of the hernia develops or manifests itself during a~~
22 ~~period while the person is in the service in the office, staff, division,~~
23 ~~department, or unit, and in the case of members of fire departments,~~
24 ~~except those persons whose principal duties are clerical, such as~~
25 ~~stenographers, telephone operators, and other office workers, and~~
26 ~~in the case of county forestry or firefighting departments, except~~
27 ~~those persons whose principal duties are clerical, such as~~
28 ~~stenographers, telephone operators, and other office workers, and~~

1 in the case of active firefighting members of the Department of
2 Forestry and Fire Protection whose duties require firefighting, and
3 in the case of members of the warden service of the Wildlife
4 Protection Branch of the Department of Fish and Game whose
5 principal duties consist of active law enforcement service,
6 excepting those whose principal duties are clerical or otherwise
7 do not clearly fall within the scope of active law enforcement
8 service such as stenographers, telephone operators, and other
9 officeworkers, the term “injury” includes pneumonia and heart
10 trouble that develops or manifests itself during a period while the
11 member is in the service of the office, staff, department, or unit.
12 In the case of regular salaried peace officers described in Chapter
13 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
14 Code, the term “injury” also includes any hernia that manifests
15 itself or develops during a period while the officer is in the service.
16 The compensation that is awarded for the hernia, heart trouble, or
17 pneumonia shall include full hospital, surgical, medical treatment,
18 disability indemnity, and death benefits, as provided by the
19 workers’ compensation laws of this state.

20 The hernia, heart trouble, or pneumonia so developing or
21 manifesting itself in those cases shall be presumed to arise out of
22 and in the course of the employment. This presumption is
23 disputable and may be controverted by other evidence, but unless
24 so controverted, the appeals board is bound to find in accordance
25 with it. The presumption shall be extended to a member following
26 termination of service for a period of three calendar months for
27 each full year of the requisite service, but not to exceed 60 months
28 in any circumstance, commencing with the last date actually
29 worked in the specified capacity.

30 The hernia, heart trouble, or pneumonia so developing or
31 manifesting itself in those cases shall in no case be attributed to
32 any disease existing prior to that development or manifestation.

33 *SECTION 1. Section 3212 of the Labor Code is repealed.*

34 3212. In the case of members of a sheriff’s office or the
35 California Highway Patrol, district attorney’s staff of inspectors
36 and investigators or of police or fire departments of cities, counties,
37 cities and counties, districts or other public or municipal
38 corporations or political subdivisions, whether those members are
39 volunteer, partly paid, or fully paid, and in the case of active
40 firefighting members of the Department of Forestry and Fire

1 ~~Protection whose duties require firefighting or of any county~~
2 ~~forestry or firefighting department or unit, whether voluntary, fully~~
3 ~~paid, or partly paid, and in the case of members of the warden~~
4 ~~service of the Wildlife Protection Branch of the Department of~~
5 ~~Fish and Game whose principal duties consist of active law~~
6 ~~enforcement service, excepting those whose principal duties are~~
7 ~~clerical or otherwise do not clearly fall within the scope of active~~
8 ~~law enforcement service such as stenographers, telephone~~
9 ~~operators, and other officeworkers, the term “injury” as used in~~
10 ~~this act includes hernia when any part of the hernia develops or~~
11 ~~manifests itself during a period while the member is in the service~~
12 ~~in the office, staff, division, department, or unit, and in the case~~
13 ~~of members of fire departments, except those whose principal~~
14 ~~duties are clerical, such as stenographers, telephone operators, and~~
15 ~~other officeworkers, and in the case of county forestry or~~
16 ~~firefighting departments, except those whose principal duties are~~
17 ~~clerical, such as stenographers, telephone operators, and other~~
18 ~~officeworkers, and in the case of active firefighting members of~~
19 ~~the Department of Forestry and Fire Protection whose duties~~
20 ~~require firefighting, and in the case of members of the warden~~
21 ~~service of the Wildlife Protection Branch of the Department of~~
22 ~~Fish and Game whose principal duties consist of active law~~
23 ~~enforcement service, excepting those whose principal duties are~~
24 ~~clerical or otherwise do not clearly fall within the scope of active~~
25 ~~law enforcement service such as stenographers, telephone~~
26 ~~operators, and other officeworkers, the term “injury” includes~~
27 ~~pneumonia and heart trouble that develops or manifests itself~~
28 ~~during a period while the member is in the service of the office,~~
29 ~~staff, department, or unit. In the case of regular salaried county or~~
30 ~~city and county peace officers, the term “injury” also includes any~~
31 ~~hernia that manifests itself or develops during a period while the~~
32 ~~officer is in the service. The compensation that is awarded for the~~
33 ~~hernia, heart trouble, or pneumonia shall include full hospital,~~
34 ~~surgical, medical treatment, disability indemnity, and death~~
35 ~~benefits, as provided by the workers’ compensation laws of this~~
36 ~~state.~~

37 ~~The hernia, heart trouble, or pneumonia so developing or~~
38 ~~manifesting itself in those cases shall be presumed to arise out of~~
39 ~~and in the course of the employment. This presumption is~~
40 ~~disputable and may be controverted by other evidence, but unless~~

~~so controverted, the appeals board is bound to find in accordance with it. The presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.~~

~~The hernia, heart trouble, or pneumonia so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.~~

SEC. 2. Section 3212 is added to the Labor Code, to read:

3212. (a) As used in this act, the term "injury" includes both of the following:

(1) With respect to the following members, a hernia, when any part of the hernia develops or manifests itself during a period while the member is in the service in the office, staff, division, department, or unit:

(A) Members of a sheriff's office or the California Highway Patrol, district attorney's staff of inspectors and investigators or of police or fire departments of cities, counties, cities and counties, districts or other public or municipal corporations or political subdivisions, whether those members are volunteer, partly paid, or fully paid.

(B) Active firefighting members of the Department of Forestry and Fire Protection whose duties require firefighting or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid.

(C) Members of the warden service of the Wildlife Protection Branch of the Department of Fish and Game whose principal duties consist of active law enforcement service, except those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service, such as stenographers, telephone operators, and other officeworkers.

(D) Regular salaried county or city and county peace officers.

(E) Full-time peace officers, other than those described in subparagraph (A) or (D), as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(2) With respect to the following members, pneumonia and heart trouble that develops or manifests itself during a period while the member is in the service of the department:

1 (A) Members of fire departments, except those whose principal
2 duties are clerical, such as stenographers, telephone operators,
3 and other officeworkers.

4 (B) Members of county forestry or firefighting departments,
5 except those whose principal duties are clerical, such as
6 stenographers, telephone operators, and other officeworkers.

7 (C) Active firefighting members of the Department of Forestry
8 and Fire Protection whose duties require firefighting.

9 (D) Members of the warden service of the Wildlife Protection
10 Branch of the Department of Fish and Game whose principal
11 duties consist of active law enforcement service, except those whose
12 principal duties are clerical or otherwise do not clearly fall within
13 the scope of active law enforcement service such as stenographers,
14 telephone operators, and other officeworkers.

15 (b) The compensation that is awarded for the hernia, heart
16 trouble, or pneumonia shall include full hospital, surgical, medical
17 treatment, disability indemnity, and death benefits, as provided by
18 the workers' compensation laws of this state.

19 (c) Hernia, heart trouble, or pneumonia developing or
20 manifesting as described in this section shall be presumed to arise
21 out of and in the course of employment. This presumption is
22 disputable and may be controverted by other evidence, but unless
23 controverted by other evidence, the appeals board is bound to find
24 in accordance with it. The presumption shall be extended to a
25 member following termination of service for a period of three
26 calendar months for each full year of the requisite service, but not
27 to exceed 60 months in any circumstance, commencing with the
28 last date actually worked in the specified capacity

29 (d) Hernia, heart trouble, or pneumonia developing or
30 manifesting as described in this section shall not be attributed to
31 any disease existing prior to that development or manifestation.

32 ~~SEC. 2.~~

33 SEC. 3. Section 3212.1 of the Labor Code is amended to read:

34 3212.1. (a) This section applies to all of the following:

35 (1) Active firefighting members, whether volunteers, partly
36 paid, or fully paid, of all of the following fire departments:

37 (A) A fire department of a city, county, city and county, district,
38 or other public or municipal corporation or political subdivision.

39 (B) A fire department of the University of California and the
40 California State University.

1 (C) The Department of Forestry and Fire Protection.

2 (D) A county forestry or firefighting department or unit.

3 (2) Active firefighting members of a fire department that serves
4 a United States Department of Defense installation and who are
5 certified by the Department of Defense as meeting its standards
6 for firefighters.

7 (3) Active firefighting members of a fire department that serves
8 a National Aeronautics and Space Administration installation and
9 who adhere to training standards established in accordance with
10 Article 4 (commencing with Section 13155) of Chapter 1 of Part
11 2 of Division 12 of the Health and Safety Code.

12 (4) ~~Peace~~ *Part-time and full-time peace officers and officers as*
13 *described in Section 830.1, subdivision (a) of Section 830.2, and*
14 *subdivisions (a) and (b) of Section 830.37, and full-time peace*
15 *officers described in Chapter 4.5 (commencing with Section 830)*
16 *of Title 3 of Part 2 of the Penal Code.*

17 (5) (A) Fire and rescue services coordinators who work for the
18 Office of Emergency Services.

19 (B) For purposes of this paragraph, “fire and rescue services
20 coordinators” means coordinators with any of the following job
21 classifications: coordinator, senior coordinator, or chief
22 coordinator.

23 (b) The term “injury,” as used in this division, includes cancer,
24 including leukemia, that develops or manifests itself during a period
25 in which a person described in subdivision (a) is in the service of
26 the department or unit, if the person demonstrates that he or she
27 was exposed, while in the service of the department or unit, to a
28 known carcinogen as defined by the International Agency for
29 Research on Cancer, or as defined by the director.

30 (c) The compensation that is awarded for cancer shall include
31 full hospital, surgical, medical treatment, disability indemnity, and
32 death benefits, as provided by this division.

33 (d) The cancer so developing or manifesting itself in these cases
34 shall be presumed to arise out of and in the course of the
35 employment. This presumption is disputable and may be
36 controverted by evidence that the primary site of the cancer has
37 been established and that the carcinogen to which the person has
38 demonstrated exposure is not reasonably linked to the disabling
39 cancer. Unless so controverted, the appeals board is bound to find
40 in accordance with the presumption. This presumption shall be

1 extended to a person following termination of service for a period
2 of three calendar months for each full year of the requisite service,
3 but not to exceed 120 months in any circumstance, commencing
4 with the last date actually worked in the specified capacity.

5 (e) The amendments to this section enacted during the 1999
6 portion of the 1999–2000 Regular Session shall be applied to
7 claims for benefits filed or pending on or after January 1, 1997,
8 including, but not limited to, claims for benefits filed on or after
9 that date that have previously been denied, or that are being
10 appealed following denial.

11 (f) This section shall be known, and may be cited, as the William
12 Dallas Jones Cancer Presumption Act of 2010.

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 3212.5 of the Labor Code is amended to read:
15 3212.5. In the case of a peace officer described in Chapter 4.5
16 (commencing with Section 830) of Title 3 of Part 2 of the Penal
17 Code, when the person is employed upon a regular, full-time salary,
18 the term “injury” as used in this division includes heart trouble
19 and pneumonia which develops or manifests itself during a period
20 while the person is in the service the compensation that is awarded
21 for heart trouble or pneumonia as described in this section shall
22 include full hospital, surgical, medical treatment, disability
23 indemnity, and death benefits as provided by the provisions of this
24 division.

25 (a) The heart trouble or pneumonia so developing or manifesting
26 itself shall be presumed to arise out of and in the course of the
27 employment; provided, however, that the person shall have served
28 five years or more in that capacity before the presumption shall
29 arise as to the compensability of heart trouble so developing or
30 manifesting itself. This presumption is disputable and may be
31 controverted by other evidence, but unless so controverted, the
32 appeals board is bound to find in accordance with it. This
33 presumption shall be extended to a person following termination
34 of service for a period of three calendar months for each full year
35 of the requisite service, but not to exceed 60 months in any
36 circumstance, commencing with the last date actually worked in
37 the specified capacity.

38 (b) The heart trouble or pneumonia so developing or manifesting
39 itself in these cases shall in no case be attributed to any disease
40 existing prior to its development or manifestation.

~~SEC. 4.~~

SEC. 5. Section 3212.6 of the Labor Code is amended to read:

3212.6. (a) (1) In the case of a peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a prison or jail guard or correctional officer who is employed by a public agency, when that person is employed upon a regular, full-time salary, or in the case of a member of a fire department of any city, county, or district, or other public or municipal corporations or political subdivisions, when that person is employed on a regular fully paid basis, and in the case of an active firefighting member of the Department of Forestry and Fire Protection whose duties require firefighting and first aid response services, or of any county forestry or firefighting department or unit, if that person is employed on a regular fully paid basis, except persons whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement, firefighting, or emergency first aid response service such as stenographers, telephone operators, and other officeworkers, the term “injury” includes tuberculosis that develops or manifests itself during a period while that member is in the service of that department or office. The compensation that is awarded for the tuberculosis shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division.

(2) The tuberculosis developing or manifesting itself as described in paragraph (1) shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a person described in paragraph (1) following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(b) A public entity may require applicants for employment in firefighting positions who would be entitled to the benefits granted by this section to be tested for infection for tuberculosis.

~~SEC. 5.~~

SEC. 6. Section 3212.85 of the Labor Code is amended to read:

1 3212.85. (a) This section applies to a *full-time or part-time*
2 peace officer described in *Sections 830.1 to 830.5, inclusive, of*
3 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2
4 of the Penal Code, *any other full-time peace officer described in*
5 *that chapter*, and a member of a fire department.

6 (b) The term “injury,” as used in this division, includes illness
7 or resulting death due to exposure to a biochemical substance that
8 develops or occurs during a period in which a person described in
9 subdivision (a) is in the service of the department or unit.

10 (c) The compensation that is awarded for injury pursuant to this
11 section shall include full hospital, surgical, medical treatment,
12 disability indemnity, and death benefits, as provided by this
13 division.

14 (d) The injury that develops or manifests itself in these cases
15 shall be presumed to arise out of, and in the course of, the
16 employment. This presumption is disputable and may be
17 controverted by other evidence. Unless controverted, the appeals
18 board is bound to find in accordance with the presumption. This
19 presumption shall be extended to a person described in subdivision
20 (a) following termination of service for a period of three calendar
21 months for each full year of the requisite service, but not to exceed
22 60 months in any circumstance, commencing with the last date
23 actually worked in the specified capacity.

24 (e) For purposes of this section, the following definitions apply:

25 (1) “Biochemical substance” means any biological or chemical
26 agent that may be used as a weapon of mass destruction, including,
27 but not limited to, any chemical warfare agent, weaponized
28 biological agent, or nuclear or radiological agent, as these terms
29 are defined in Section 11417 of the Penal Code.

30 (2) “Member of a fire department” includes, but is not limited
31 to, an apprentice, volunteer, partly paid, or fully paid member of
32 any of the following:

33 (A) A fire department of a city, county, city and county, district,
34 or other public or municipal corporation or political subdivision.

35 (B) A fire department of the University of California and the
36 California State University.

37 (C) The Department of Forestry and Fire Protection.

38 (D) A county forestry or firefighting department or unit.

39 ~~SEC. 6.~~

40 ~~SEC. 7.~~ Section 3212.9 of the Labor Code is amended to read:

1 3212.9. In the case of a peace officer described in Chapter 4.5
2 (commencing with Section 830) of Title 3 of Part 2 of the Penal
3 Code, when that person is employed on a regular, full-time salary,
4 or in the case of a member of a fire department of any city, county,
5 or district, or other public or municipal corporation or political
6 subdivision, or any county forestry or firefighting department or
7 unit, when the person is employed on a regular full-time salary,
8 except persons whose principal duties are clerical or otherwise do
9 not clearly fall within the scope of active law enforcement or
10 firefighting, such as stenographers, telephone operators, and other
11 officeworkers, the term “injury” includes meningitis that develops
12 or manifests itself during a period while that person is in the service
13 of that department, office, or unit. The compensation that is
14 awarded for the meningitis shall include full hospital, surgical,
15 medical treatment, disability indemnity, and death benefits as
16 provided by the provisions of this division.

17 The meningitis so developing or manifesting itself shall be
18 presumed to arise out of and in the course of the employment. This
19 presumption is disputable and may be controverted by other
20 evidence, but unless so controverted, the appeals board is bound
21 to find in accordance with it. This presumption shall be extended
22 to a person following termination of service for a period of three
23 calendar months for each full year of the requisite service, but not
24 to exceed 60 months in any circumstance, commencing with the
25 last date actually worked in the specified capacity.

26 ~~SEC. 7. If the Commission on State Mandates determines that~~
27 ~~this act contains costs mandated by the state, reimbursement to~~
28 ~~local agencies and school districts for those costs shall be made~~
29 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
30 ~~4 of Title 2 of the Government Code.~~